

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA)
v.) Cr. No. 06-028 S
GERMAINE EDELEN)
_____)

OPINION AND ORDER

WILLIAM E. SMITH, United States District Judge.

In 2006, Defendant plead guilty to possession with the intent to distribute five grams or more of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1)&(b)(1)(B). He was sentenced to a term of imprisonment of 126 months. However, in 2007, Congress passed amendments to the United States Sentencing Guidelines (the "Guidelines") that lowered the sentencing range for his offense. See U.S.S.G. App. C, Amendment 706 (2009). The amendments were intended to be retroactive. Therefore, on July 28, 2009, the government stipulated that Defendant was entitled to a retroactive sentence reduction pursuant to 18 U.S.C. § 3582(c). On August 6, the Court lowered Defendant's sentence to 100 months, based on the amended Guidelines range.

Defendant now moves for a second retroactive reduction in his sentence. He cites legislation introduced in the House of Representatives that, if passed, would affect statutory penalties for cocaine base, or crack. However, the proposed

Fairness in Cocaine Sentencing Act of 2009 provides no grounds for the relief Defendant seeks, for one simple reason: it is not yet law. See H.R. 1459, 111 Cong. (2009).

Defendant also appears to argue that the United States Sentencing Commission (the "Commission") either intends to recommend deeper cuts to crack sentences in the future, or that it has already "impliedly lowered" the Guidelines range for his crime to levels below the range it actually proposed in 2007. (See Def.'s Reply ¶ 3.) Of course, there is no authority to retroactively lower a sentence based on an "implied" reduction, or the supposed intent of the Commission to make future proposals.

For these reasons, Defendant's motion is DENIED.

IT IS SO ORDERED.

/s/ William E. Smith
William E. Smith
United States District Judge
Date: January 14, 2010